

SPECIAL OPERATIONS GROUP,)	AGBCA No. 99-139-2
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Stuart Alan)	
Chief Executive Officer)	
526 Railroad Street)	
Corona, California 91720)	
)	
Representing the Government:)	
)	
James E. Andrews)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
33 New Montgomery, 17 th Floor)	
San Francisco, California 94105-1924)	

DECISION OF THE BOARD OF CONTRACT APPEALS

June 23, 1999

OPINION BY ADMINISTRATIVE JUDGE HOWARD A. POLLACK

This appeal arises under Contract No. 56-9A14-6-0097, between Special Operations Group of Corona, California (Appellant), and the U. S. Department of Agriculture, Forest Service (FS or Government), San Bernardino National Forest, California, for work associated with crew transportation involving firefighting operations. In this appeal, the contractor claimed \$5,772, for work that had been performed during 1996 but not paid.

By letter of February 4, 1999, Appellant filed an appeal and Complaint with the Board challenging the FS's failure to pay Appellant for services invoiced by Appellant. At that time, Appellant elected to process the appeal under the Board's Expedited Procedure, requiring a decision within 120 days of the election or by June 4, 1999. At the time Appellant filed its appeal, the FS had not issued a Contracting Officer's (CO's) decision regarding the invoiced services, notwithstanding that Appellant had written several letters claiming entitlement to payment.

On February 17, 1999, the Board docketed the matter on a deemed denial basis. In the docketing letter, the Board noted that it appeared from the appeal letter that a number of procedural matters

needed to be clarified before the Board and parties proceeded further. Accordingly, and before requiring the parties to perform additional action, the Board noted that it would set a telephone conference in an attempt to clarify those issues.

On March 10, 1999, the Board held a telephone conference with the parties. The FS did not dispute that Appellant performed the services. The FS, however, was denying payment because the FS could not verify or establish through its records that the sum claimed by Appellant had not already been paid. In an attempt to facilitate settlement, the Board directed the FS to provide a statement to both the Board and Appellant setting out what evidence the Government had to establish that Appellant had been paid and further to identify any other defenses the Government intended to raise.

By letter of March 15, 1999, the Board was advised by FS counsel that the FS had failed to turn up documents reflecting payment on the invoices in question and that it appeared that Appellant was correct that payment had not been made. Counsel for the FS then advised that the CO had authorized payment for the full amount of the two contested invoices.

On April 19, 1999, the Board was informed by Appellant that it had been paid. The Board then received a letter from FS counsel confirming payment and requesting dismissal.

DECISION

This matter having been settled and the sum in issue paid, the appeal is dismissed.

HOWARD A. POLLACK
Administrative Judge

Issued at Washington, D. C.
June 23, 1999